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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,568	01/03/2002	Gary A. Kasper	71189-1385	5847
20915	7590	11/14/2003	EXAMINER	
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			TILL, TERRENCE R	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 11/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/038,568

Applicant(s)

KASPER ET AL.

Examiner

Terrence R. Till

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 and 18 is/are allowed.
- 6) ☒ Claim(s) 1-3, 14 and 16 is/are rejected.
- 7) ☒ Claim(s) 4-13 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 14 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by

Scalfani et al.

3. Scalfani et al. discloses an upright vacuum cleaner 10 having a base module 12 and a handle 14 pivotally mounted thereto for pivotal movement about a pivot axis between an upright stored position and a reclining use position; the base module having a suction nozzle 18; a filter bag 104 is removably mounted to the handle for movement therewith; a working air conduit 26 (and including part of the handle) between the suction nozzle and the filter bag; 5 a suction source 32,34 mounted to a lower portion of the handle and in communication with the suction nozzle and the filter bag for moving dust- laden air between the suction nozzle and through the filter bag; and a cyclonic dust separator 100 mounted in the working air conduit upstream of the filter bag for separating larger particles from the dust-laden air before the dust-laden air passes through the filter bag. Scalfani et al. further discloses the handle 14 includes a rigid elongated tube (i.e., the working air conduit) that extends between the base module at a lower end and the filter bag at an upper end and the cyclonic dust separator is mounted to the rigid elongated tube. In addition, Scalfani et al. disclose the suction source is mounted in the working air conduit

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downstream of the filter bag and the filter bag is a conventional bag filter and is mounted in a bag filter housing that is mounted to the handle.

*Allowable Subject Matter*

4. Claims 4-13 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claims 17 and 18 are allowed.
6. The following is an examiner's statement of reasons for allowance: With respect to claim 17, the prior art does not disclose nor render obvious the claimed combination, particularly a cylindrical dirt-separating grille within said cyclonic dust separator between the inlet opening and outlet opening and having a plurality of holes through which working air passes between the inlet opening and outlet openings of the cyclone body; and an annular baffle plate mounted to a bottom portion of the dirt- separating grille and extending laterally thereof. With respect to claim 18, the prior art does not disclose nor render obvious the claimed combination, particularly a post-cyclone filter assembly in the form of a soft porous bag enclosing a filter bag that is in fluid communication with the working air conduit.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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*Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Kilstrom discloses a vacuum cleaner with a cyclonic and bag filter, to be used alternatively.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to T. Till whose telephone number is (703) 308-1592.

Any inquiry of a general nature concerning the status of this application should be directed to the receptionist of Technology Center 2 whose telephone number is (703) 308-0661.

Any responses made by facsimile should be addressed to T. Till at (703) 872-9310.

In mid-December of 2003, the examiner will be moving locations and changing phone numbers. The following information will apply:

New phone number: (571) 272-1280

  
TERRENCE R. TILL  
PRIMARY EXAMINER  
ART UNIT 1744

trt  
November 10, 2003